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TREASURY FOR OASIA - HOEK AND MACLAUGHLIN
USDOC FOR 4332/ITA/MAC/WH/OLAC/ADRISCOLL AND JKOZLOWICKI
STATE FOR EB/IFD/OIA - HATCHER/HICKS
STATE PASS OPIC FOR RO'SULLIVAN

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TAGS: EINV EFIN ETRD ELAB KTDB OPIC USTR BR
SUBJECT: BRAZIL: INVESTMENT CLIMATE STATEMENT 2009

REF: STATE 123907

¶1. This cable transmits the text of the Brazil Investment Climate Statement for 2007.

BEGIN TEXT:

A.1. Openness to Foreign Investment

Brazil is open to and encourages foreign investment. According to a recent United Nations report, Brazil is the largest foreign direct investment (FDI) recipient in Latin America, attracting an estimated USD 42 billion in 2008 (The Brazilian Central Bank reports a slightly higher figure of USD 45 billion). The United States is the number one foreign investor in Brazil. FDI is prevalent across Brazil's economy, although certain sectors, notably media and communications, aviation, transportation and mining, are subject to foreign ownership limitations. While Brazil is generally considered a friendly environment for foreign investment, burdensome tax and regulatory requirements exist. In most cases these impediments apply without discrimination to both foreign and domestic firms. The Government of Brazil makes no distinction between foreign and national capital.

With respect to the current global financial crisis, a diversified economy, reliance on local rather than external debt, and investment grade status will help Brazil weather the storm. However, Brazil is not immune to the crisis and the Central Bank's January 2009 market survey revealed a forecasted GDP growth of 2.0 percent, a decline from the July 2008 forecast of 4.0 percent growth. The Brazilian government is pursuing monetary policy and industry support measures to address the impact of the crisis.

Banking: An indication of the country's financial openness, Brazil's banking sector includes significant foreign investment and representation. While the Constitution of 1988 technically forbids new or expanded foreign investment in the banking sector, the vast majority of requests for entry or expansion have been approved on a case-by-case basis. Recent Brazilian Central Bank figures report that in 2008 foreign banks comprise 18 of the top 50 Brazilian banks in terms of total assets, representing 21.6 percent of total financial assets less brokerage.

Insurance: Since 1996 the insurance sector has been open to foreign investors with most major U.S. firms represented via joint venture arrangements. On January 15, 2007, Complementary Law 126 was published in Brazil eliminating the previous state monopoly on reinsurance through the government-owned Brazil Reinsurance Institute (IRB), which had been in place since 1939.

Privatization: Foreign investment has played a significant role in Brazil's privatization programs. From the early 1990s through 2007, Brazil's privatizations realized USD 87.9 billion in sales revenue and another USD 18.1 billion in debt transfer. Foreign investment accounted for about USD 42.0 billion, or 48 percent of the total. Of this foreign investment participation, U.S. investors accounted for one third or USD 14.0 billion. After a slowdown in

privatization activity in the early 2000s, the Lula administration, which came to power in 2003, revived the program with three transactions: the 2004 privatization of the State Bank of Maranhao for USD 26.6 million, the 2005 privatization of the State Bank of Ceara for USD 302 million, and the 2006 privatization of Paulista Electric Energy Transmission Company for USD 230 million. In 2007 and 2008, large scale infrastructure projects were auctioned, including federal highways, high speed rail and airports. Additional infrastructure privatization activity is planned for ¶2009.

Ownership Restrictions: A 1995 constitutional amendment terminated the distinction between foreign and local capital in general, yet there are laws that restrict foreign ownership within some sectors, notably media and communications, and aviation.

Foreign investment restrictions remain in a limited number of other sectors, including highway freight (20 percent) and mining of radioactive ore. Foreign ownership of land within 150 km of national borders remains prohibited unless approved by Brazil's National Security Council.

Media: Open broadcast (non-cable) television companies are subject to a regulation requiring that 80 percent of their programming content be domestic in origin. Additionally, Law 10610 (2002) limits foreign ownership in other media, including open broadcast and print media outlets, to 30 percent. In 2009, Brazil's legislature is considering extension of this restriction to cover Internet Service Providers, pay TV channels and operators, and content producers and distributors. Foreign ownership of cable companies is limited to 49 percent, and the foreign owner must have a headquarters in Brazil and have had a presence in the country for the previous ten years. National cable and satellite operators are subject to a fixed title levy on foreign content and foreign advertising on their channels.

Aviation: The Government of Brazil currently restricts foreign investment in domestic airline companies to a maximum of 20 percent. The Government of Brazil is considering potential privatization of commercial airport operations. The United States and Brazil liberalized cargo and passenger services in June 2008 and committed to further liberalization discussions by 2010.

In May of 2008 Brazil published the Productive Development Policy which encourages technological innovations and new investment opportunities in the country. It sets targets for investment spending to reach 21 percent of GDP and private investment in R&D to reach 0.64 percent of GDP by 2010. It also sets goals to increase Brazil's share of exports to 1.25 percent of the global total and increase the number of small export businesses.

A.2. Conversion and Transfer Policies

There are few restrictions on converting or transferring funds associated with a foreign investment in Brazil. Foreign investors may freely convert Brazilian currency in the unified foreign exchange market wherein buy-sell rates are determined by market forces. All foreign exchange transactions, including identifying data, must be reported to the Central Bank. Foreign exchange transactions on the current account have been fully liberalized.

Foreigners investing in Brazil must register their investment with the Central Bank within 30 days of the inflow of resources to Brazil. Registration is done electronically. Investments involving royalties and technology transfer must be registered with the patent office (INPI) as well. Investors must also have a representative in Brazil. Portfolio investors must have a Brazilian financial administrator and register with the Brazilian securities commission (CVM).

All incoming foreign loans must be approved by the Central Bank. In most instances, the loans are automatically approved. Automatic approval is not issued when the costs of the loan are "not compatible with normal market conditions and practices." In such instances, the Central Bank may request additional information regarding the transaction. Foreign loans obtained abroad do not require advance approval by the Central Bank, provided the recipient is not a government entity. Loans to government entities require

prior approval from the Senate as well as from the Finance Ministry Treasury Secretariat and are subject to registration with the Central Bank.

Interest and amortization payments specified in a loan contract can be made without additional approval from the Central Bank. Early payments can also be made without additional approvals, if the contract includes a provision for them. Otherwise, early payment requires notification to the Central Bank to ensure accurate records of Brazil's stock of debt.

Central Bank regulations introduced in 2005 unified the foreign exchange market. Foreign investors, upon registering their investment with the Central Bank, are able to remit dividends, capital (including capital gains), and, if applicable, royalties. Remittances must also be registered with the Central Bank. Dividends cannot exceed corporate profits. The remittance transaction may be carried out at any bank by documenting the source of the transaction (evidence of profit or sale of assets) and showing that applicable taxes have been paid.

Capital gain remittances are subject to a 15 percent income withholding tax, with the exception of the capital gains and interest payments on tax exempt domestically issued Brazilian bonds. Repatriation of an initial investment is also exempt from income tax. Lease payments are assessed a 15 percent withholding tax. Remittances related to technology transfers are not subject to the tax on credit, foreign exchange, and insurance (IOF), although they are subject to a 15 percent withholding tax and an extra 10 percent Contribution of Intervention in the Economic Domain (CIDE). Loans with terms of 90 days or less must pay the IOF (5.38 percent), while those of longer maturity, profits and FDI remittances must pay 0.38 percent.

Foreign cable and satellite television programmers are subject to an 11 percent remittance tax; however, the tax can be avoided if the programmer invests 3 percent of its remittances in co-production of Brazilian audio-visual services.

Exchange Rates

With the onset of the 2008 global financial crisis the Brazilian Real currency ended its prior year appreciation trend against the U.S. Dollar as investors boosted their Dollar and Euro holdings. The Real ended 2008 near 2.34 Reais/USD representing close to a 35 percent year over year depreciation versus the Dollar. Current financial markets expect the Dollar-Real exchange rate to remain within the 2.10 to 2.40 Reais/USD range in 2009.

A.3. Expropriation and Compensation

There have been no expropriation actions in Brazil against foreign interests in the recent past nor have there been any signs that the current government is contemplating such actions. In the past, some claims regarding land expropriations by state agencies have been judged by courts in U.S. citizens' favor. However, compensation has not always been paid as states have filed appeals to these decisions.

A.4. Dispute Settlement

The Brazilian court system, in general, is overburdened and contract disputes can often take years to move through the system. The 2009 World Bank "Doing Business" survey found that on average it takes 45 procedures and 616 days to litigate a contract breach at an average cost of 16.5 percent of the claim. Judicial reform measures enacted in December 2004, however, have streamlined some administrative procedures, and the introduction of the concept of binding precedent should over time make judicial decisions more predictable.
Article 34 of Brazilian Law 9.307, the 1996 Brazilian Arbitration Act, defines a foreign arbitration judgment as any judgment rendered outside the national territory. The Law established that the Brazilian Federal Supreme Court must ratify foreign arbitration awards. Law 9.307 also stipulates that the foreign arbitration award is to be recognized or executed in Brazil in conformity with the international agreements ratified by the country and, in their absence, with domestic law. (Note: A 2001 Federal Supreme Court ruling established that this 1996 Brazilian Arbitration Act,

permitting international arbitration subject to Federal Supreme Court ratification of arbitration decisions, does not violate the Federal Constitution's provision that "the law shall not exclude any injury or threat to a right from the consideration of the Judicial Power.")

Brazil has ratified the 1975 Inter-American Convention on International Commercial Arbitration (Panama Convention), the 1979 Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitration Awards (Montevideo Convention) and the 1958 UN Convention on the Recognition and Enforcement of Foreign Arbitration Awards (New York Convention). Brazil, however, is not a member of the International Center for the Settlement of Investment Disputes (ICSID), also known as the Washington Convention.

Brazil has a functional commercial code that governs most aspects of commercial association, except for corporations formed for the provision of professional services, which are governed by the civil code. In February 2005, bankruptcy legislation (Law 11101) went into effect creating a system, modeled on Chapter 11 of the U.S. bankruptcy code, which allows a company in financial trouble to negotiate a restructuring with its creditors outside of the courts. In the event a company does fail despite restructuring efforts, the reforms give creditors improved ability to recover their debts. Brazil has both a federal and a state court system and jurisprudence is based on civil law. Federal judges hear most disputes in which one of the parties is the State and rule on lawsuits between a foreign State or international organization and a municipality or a person residing in Brazil. Five Regional Federal Courts hear the appeals of the federal judge decisions.

A.5. Performance Requirements and Incentives

The Brazilian government actively encourages both national and foreign investment in traditionally underserved regions of the country and other marginally profitable ventures. A 2004 Public-Private Partnership (PPP) investment law promotes joint ventures in otherwise marginally profitable infrastructure investments. The federal government has not yet put out any PPP projects for public bids. In 2007 the Brazilian government launched the Program to Accelerate Growth (PAC) with the goal of using government resources to attract private sector investment to improve Brazil's infrastructure. To date, however, implementation of the PAC has been slow.

The Government of Brazil extends tax benefits for investment in less developed parts of the country, for example the Northeast and the Amazon regions, with equal application to foreign and domestic investors. These incentives have been successful in attracting major foreign plants to areas like the Manaus Free Trade Zone, but most foreign investment remains concentrated in the more industrialized southern part of Brazil. Individual states have sought to attract investment by offering ad hoc tax benefits and infrastructure support to specific companies, negotiated on a case by case basis. These have proven controversial, with other states challenging them as harmful fiscal competition. A tax reform proposal scheduled to be considered by the Brazilian Legislature in 2009 attempts to limit states' ability to offer tax incentives for investment.

Brazil restored tax breaks to exporters with the October 2007 enactment of Law 11529 in an attempt to help industries hurt by the strengthening real. This law allows certain Brazilian industrial sectors (textiles, furniture, ornamental stones, woodworking, leatherworking, shoes, leather goods, heavy and agricultural machinery manufacturers, apparel and automotive - including parts) to apply PIS-COFINS (social integration program) tax credits for the purchase of capital goods, both domestic and imported, that are used for manufacturing finished products. The law also expands the government's program for exporting companies purchasing capital goods. To be exempt from paying the 9.25 percent PIS-COFINS tax on these purchases, companies must prove they derive at least 70 percent of their revenues from exports. This benchmark was lowered to 60 percent for companies in the sectors covered by the legislation.

To promote Brazilian industry, the Special Agency for Industrial Financing (FINAME) of the National Bank for Economic and Social Development (BNDES) provides financing for Brazilian firms to

purchase Brazilian-made machinery and equipment and capital goods with a high level of domestic content.

Government Procurement

Brazil is not a signatory to the WTO Agreement on Government Procurement, and transparency in Brazil's procurement processes is at times lacking. The U.S. Government has received complaints concerning lack of transparency and preferences for Brazilian products in government tenders. Limitations on foreign capital participation in procurement bids reportedly impair access for potential service providers in the energy, construction, security, and defense sectors. Brazilian federal, state, and municipal governments, as well as related agencies and companies, in general follow a "buy domestic" policy.

Law 8666 (1993) which covers most government procurement other than information technology/telecommunications requires non-discriminatory treatment for all bidders regardless of nationality or origin of the product or service. However, the law's implementing regulations allow for the consideration of non-price factors, giving preferences to certain goods produced in Brazil and stipulating local content requirements for fiscal benefits eligibility. Additionally, nearly all bids require that a local representative be established for any foreign company bidding.

Decree 1070 (1994), which regulates the procurement of information technology goods and services, requires federal agencies and parastatal entities to give preferential treatment to locally produced computer products based on a complicated and nontransparent price/technology matrix. However, Brazil permits foreign companies with legal entities in the country to compete for procurement-related multilateral development bank loans and opens selected procurements to international tenders.

A.6. Right to Private Ownership and Establishment

Foreign and domestic private entities may establish, own, and dispose of business enterprises.

A.7. Protection of Property Rights

Mortgages

Brazil has a system in place for mortgage registration, but implementation is uneven and there is no standardized contract. Foreign individuals or foreign-owned companies can purchase real property in Brazil. Buyers frequently arrange alternative financing in their own countries, where rates may be more attractive. Law 9514 (1997) helped spur the mortgage industry by establishing a legal framework for a secondary market in mortgages and streamlining the foreclosure process, but the mortgage market in Brazil is still underdeveloped and foreigners may not be able to obtain mortgage financing. Large U.S. real estate firms, however, are expanding their portfolios in Brazil.

Intellectual and other Property Rights

Brazil is a signatory to the GATT Uruguay Round Accords, including the Trade Related Aspects of Intellectual Property (TRIPS) Agreement, signed in April 1994. Brazil is a member of the World Intellectual Property Organization (WIPO) and a signatory of the Bern Convention on Artistic Property, the Patent Cooperation Treaty, and the Paris Convention on Protection of Intellectual Property.

Brazil has not ratified the WIPO Copyright Treaty (WCT) or the WIPO Performances and Phonograms Treaty (WPPT). In 2006, the country announced plans to join the Madrid Agreement Concerning the International Registration of Marks ("Madrid Protocol"). In 2007, Congress forwarded the issue to the Executive branch for consideration, where it is still pending.

In most respects, Brazil's 1996 Industrial Property Law (Law 9.279) brings its patent and trademark regime up to the international standards specified in the TRIPS Agreement, although the law does permit the grant of a compulsory license if a patent owner has failed to locally manufacture the patented invention in Brazil within three years of patent issuance. On May 4, 2007, invoking

TRIPS provisions and public interest, Brazil issued a compulsory license for an anti-retroviral drug used in treating HIV/AIDS. Data protection for pharmaceutical products for human use remains an ongoing concern.

The United States has raised concerns regarding Brazil's Law 10196 of 2001, which includes a requirement that National Health Surveillance Agency (ANVISA) approval be obtained prior to the issuance of a pharmaceutical patent. On June 23, 2008, ANVISA issued Resolution RDC 45 standardizing, to some extent, the procedures for review of such patent applications. Nonetheless, ANVISA's role in reviewing pharmaceutical patent applications remains non-transparent and has contributed to an increasing backlog in the issuance of patents. The United States is also concerned that this requirement singles out one particular product category for a set of procedural requirements.

A government-drafted bill to provide protection for the layout design of integrated circuits (computer mask works) was enacted into law on May 31, 2007 (Law 11.484).

In August 2007, a bill (PL 1807/07) was introduced that, if approved, would amend Article 189 of Brazil's Industrial Property Law (9279/1996) by increasing the criminal penalties for trademark violations to two to six years, up from the current three to twelve months.

Patent and trademark licensing agreements must be recorded with and approved by the National Institute of Industrial Property (INPI) and registered with the Central Bank of Brazil (Normative Act No. 135, of April 15, 1997). Licensing contracts must contain detailed information about the terms of the agreement and royalties to be paid. In such arrangements, Brazilian law limits the amount of the royalty payment that can be taken as a tax deduction, which consequently acts as a de facto cap on licensing fees.

Brazil's 1998 copyright laws generally conform to international standards, yet piracy of copyright material remains a problem. The Brazilian Congress passed a law in July 2003 increasing minimum prison sentences for copyright violations and establishing procedures for making arrests and the destruction of confiscated products. However, the heftier sentences have not acted as effective deterrents due to the continued ability of judges to commute many of the prison terms to fines.

In recognition of its improved anti-piracy enforcement efforts, Brazil was upgraded from "Priority Watch List" to "Watch List" in the 2007 U.S. Trade Representative's Special 301 report. In 2008, the country maintained its "Watch List" status on the report.

A.8. Transparency of the Regulatory System

In the 2009 World Bank "Doing Business" survey, Brazil ranked 125th out of 181 countries in terms of regulatory environment conducive to business. Brazilian sources respond that the survey attempts to account for requirements across all states and therefore offers an inflated view of what is actually required in any one state. According to the study, it takes an average of 18 procedures and 152 days to start a new business. The study noted that the administrative burden to a medium-size business of tax payments in Brazil is an average of 2,600 hours versus 187 hours in the United States. According to this same study, it takes four years to close a business in Brazil and the recovery rate is 17.1 cents to the dollar.

Tax regulations, while burdensome and numerous, do not differentiate between foreign and domestic firms. However, there have been instances of complaints that the value-added tax collected by individual states (ICMS) favors local companies. Although the tax is designed to be refunded upon export of goods outside of the country, exporters in many states have had difficulty receiving their ICMS rebates. Taxes on commercial and financial transactions are particularly burdensome, and businesses complain that these taxes hinder international competitiveness of Brazilian products. A government proposal to streamline the tax collection system is currently under consideration by the Brazilian Congress, but tax reform has been difficult because states fear losing revenue and control over fiscal policy.

ANVISA, the Brazilian FDA equivalent, has regulatory authority over the production and marketing of food, drugs and medical devices. ANATEL, the country's telecommunication agency, handles licensing and assigns bandwidth. ANP, the National Petroleum Agency, has been commended by the industry for its fair handling of auctions of oil exploration blocks and for its willingness to support the simplification of regulatory procedures such as environmental licensing. However, following the discoveries of new oil reserves in late 2007, auctions have been discontinued for off-shore blocks as the government deliberates over a new regulatory structure for the oil and gas sector.

The civil air transport industry regulator (ANAC) began functioning in 2006 with a mandate to increase competition within Brazil's civil aviation industry. Taking over responsibilities that had previously resided with the Brazilian Air Force, ANAC has begun to take steps to liberalize the Brazilian market, although court challenges have slowed some proposed initiatives, such as price liberalization that is intended to be phased in over 2009.

Foreign investors have encountered obstacles when interfacing with regulatory agencies. Notable examples include companies in the electric power sector that have complained about the high level of regulatory risk, for example the tariff review process and the implementation of Brazil's new energy model. Additionally, some industries have reported challenges in obtaining licenses from IBAMA, the environmental regulator, citing unpredictability in IBAMA's licensing requirements, though the process has reportedly become more streamlined over the course of 2008. Brazilian private sector organizations which often include foreign companies are vocal and involved in industry standards setting.

A bill (PL 3937/04) to modernize Brazil's antitrust review and to combine the antitrust functions of the Ministry of Justice and the Ministry of Finance (MoF) into those of the Administrative Council for Economic Defense (CADE) passed through the Chamber of Deputies in December of 2008. The bill, which would also revise the country's licensing and anti-cartel system, is currently awaiting consideration by the Senate.

Recent Concerns over Legislation Regulating Business Operations

Foreign express delivery companies have recently become concerned about high taxes and a potential new Postal Law that if passed would monopolize the delivery of all letters and post cards under the Brazilian National Postal Service. While the new law would exclude packages, it does include letters which constitute a large product segment within the express delivery industry. The express delivery industry is encouraging the Brazilian government not to pass a law imposing regulations on the delivery of letters. The law's draft remains with the Labor Commission in the House of Representatives and there is an executive branch petition to withdraw it, but as of January 2009 the Labor Commission has not yet voted on the issue.

Brazil recently enacted a new Customer Care Support Law (Decree 6523), effective as of December 2008, which implements numerous requirements for customer support and call centers operating in Brazil. The provisions of the law are perceived as onerous and operationally intrusive to private business. Among the laws many provisions are the requirements that a company operate its call center 24 hours a day and seven days a week, record and store call data, not leave a customer on hold for more than 60 seconds and to ensure that when customers are transferred to another attendant prior conversations are not repeated. The enforcement of the decree and sanctions for noncompliance are covered under article 56 of Law 8078, adopted in 1990.

All proposed federal legislation is available to the general public via the internet.

House of Deputies:
http://www2.camara.gov.br/proposicoes

Federal Senate:
http://www.senado.gov.br/sf/atividade/default .asp

A.9. Efficient Capital Markets and Portfolio Investment

The Brazilian financial sector is large and sophisticated. Banks lend at the Brazilian market rate which remains extremely high due to taxation, repayment risk, a lack of judicial enforcement of contracts, high mandatory reserve requirements, and administrative overhead.

The financial sector is concentrated, with 2008 Central Bank data indicating that the 10 largest commercial banking institutions account for approximately 73.1 percent of financial sector assets less brokerage (approx. USD 1.2 trillion). Two of the five largest banks (in assets) in the country are federally owned. Lending by the large banking institutions is focused on the largest companies, while small and medium banks primarily serve small and medium-sized companies, but with a much smaller capital base.

The Central Bank has strengthened bank audits, implemented more stringent internal control requirements, and tightened capital adequacy rules to better reflect risk. It also established loan classification and provisioning requirements. These measures are applied to private and publicly owned banks alike. The Brazilian Securities Exchange Commission (CVM) independently regulates the stock exchanges, brokers, distributors, pension funds, mutual funds, and leasing companies with penalties against insider trading.

Credit Market

BNDES, the government national development bank, is the primary Brazilian source of longer-term credit, and also provides export credits. FINAME (the Special Agency for Industrial Financing) provides foreign and domestic companies operating in Brazil financing for the manufacturing and marketing of capital goods. FINAMEX (Export Financing), which finances capital good exports for both foreign and domestic companies, is a part of FINAME. One of the goals of these financing options is to support the purchase of domestic over imported equipment and machinery.

PROEX, an export credit program financed by the National Treasury offers assistance in the areas of interest rate equalization, capital and other goods exports, and service exports (See OPIC and Other Investment Insurance Programs section for more information on credit availability).

Equity Market

As of 2000 all stock trading is performed on the Sao Paulo Stock Exchange (BOVESPA), while trading of public securities is conducted on the Rio de Janeiro market. In 2008, the Brazilian Mercantile & Futures Exchange (BM&F) merged with the BOVESPA to form the form the second largest exchange in the Western Hemisphere. BOVESPA has launched a "New Market," in which the listed companies comply with stricter corporate governance requirements. In June 2004, BOVESPA's new market had 18 listed companies; and by 2008 there were 100. (Note: A majority of the Initial Public Offerings are listed on the New Market). In 2008, there were four new IPOs representing R$ 7.5 billion in raised capital; 66 percent of this amount was foreign capital.

The total number of companies listed on the BOVESPA has modestly grown over recent years; from 394 in 2006 to 424 by the end of December 2008. Total daily trading volume rose from R$ 2.4 billion in 2006 to R$ 5.5 billion in 2008. Trading is highly concentrated with the top ten stocks accounting for 53 percent of 2008's trading volume. A total of 76 Brazilian firms are also listed on the NYSE via American Depository Receipts (ADR's). Conversely, the Brazilian subsidiaries of some U.S. companies have issued shares on BOVESPA.

Foreign investors, both institutions and individuals, can directly invest in equities, securities and derivatives. Foreign investors are required to trade derivatives and stocks of publicly held companies on established markets. At year-end 2008, foreign investors accounted for 36.2 percent of the total turnover on the BOVESPA. Individual investors were the second most active category of market participants, accounting for 29.5 percent of BOVESPA transactions, while domestic institutional investors accounted for 23.8 percent. Financial and other institutions accounted for 10.5 percent. In 2001, law 10303 went into effect limiting preferred

shares for new issuances to 50 percent and strengthened rights for minority shareholders.

Brazilian law recognizes mergers, in which one company loses its separate identity by being merged into another, and consolidations, in which the pre-existing companies are extinguished and a new entity emerges. Although the stock market is growing in popularity, sales of Brazilian companies usually result from private negotiations, rather than stock exchange activities. Acquisitions resulting in market concentration in excess of 20 percent are subject to review by the Administrative Council for Economic Defense (CADE) under Brazil's 1994 Anti-trust Law.

Wholly owned subsidiaries of multinational accounting firms, including the major U.S. firms, are present in Brazil. As of 1996, auditors are personally liable for the accuracy of accounting statements prepared for banks.

A.10. Political Violence

Political and labor strikes and demonstrations occur sporadically in urban areas and may cause temporary disruption to public transportation. Since mid-2003 the Landless Workers' Movement (MST) has continued its aggressive invasions of a variety of agricultural interests, both domestic and foreign, and has occupied government buildings in its campaign to force redistribution of land. MST protests have generally been more intense during the historically significant month of April.

In 2006, criminal organizations staged several violent campaigns against public institutions in Sao Paulo State leading to a large number of deaths. While it is unlikely that U.S. citizens would be targeted during such events, U.S. citizens traveling or residing in Brazil are advised to take common-sense precautions and avoid any large gatherings or any other event where crowds have congregated to demonstrate or protest. Transnational crime is known to occur in Brazil involving individuals with ties to criminal entities that operate in major city areas and along the tri-border area of Argentina, Brazil, and Paraguay. These organizations are involved in the trafficking of illicit goods. In 2006, the U.S. Department of the Treasury designated nine individuals and two entities in the tri-border area as having provided financial and logistical support to a terrorist group.

Colombian terrorist groups have been known to operate in the border areas of neighboring countries. Although there have been reports of isolated small-scale armed incursions from Colombia into Brazil in the past, we know of no specific threat directed against U.S. citizens across the border in Brazil at this time. Colombian groups have perpetrated kidnappings of residents and tourists in border areas of Colombia's neighbors. Therefore, U.S. citizens traveling or residing in areas of Brazil near the Colombian border are urged to exercise caution. U.S. citizens are urged to take care when visiting remote parts of the Amazon basin and respect local laws and customs.

A.11. Corruption

Corruption can be an obstacle to investment in Brazil. In 2008, Brazil ranked 80th (among 180 countries) in Transparency International's Corruption Perception Index. Brazil ranked below many other Latin American countries, including Chile, Uruguay, Costa Rica, El Salvador, Colombia, Mexico, and Peru. In general terms, businesses find corruption an obstacle in government procurement and at some levels of the judiciary.

Corruption scandals are a regular feature of Brazilian political life. The GOB continued to investigate a series of corruption scandals, of unusual scope, that emerged in 2005. Parallel Brazilian congressional and law enforcement authorities' investigations revealed illicit financing by some political parties of their 2002 presidential campaigns, as well as a related scheme involving vote-buying in Congress by some elements within the ruling party and the executive branch, possibly financed by illegal rebates on contracts. In December 2007, the Brazilian Senate President resigned the presidency due to a separate ethics scandal. Brazil's anti-money laundering mechanisms and relatively independent prosecutorial and oversight institutions have played useful roles in

the investigation of such cases.

Brazil is a signatory to the Organization for Economic Cooperation and Development (OECD) Anti-Bribery Convention. Brazil has laws, regulations and penalties to combat corruption, but their effectiveness is inconsistent. While federal government authorities generally investigate allegations of corruption, there are inconsistencies in the level of enforcement among individual states. Corruption remains problematic in business dealings with some parts of the Brazilian government, particularly on the local level.

Bribery is illegal and a bribe by a local company to a foreign official is a criminal act. A company cannot deduct a bribe to a foreign official from its taxes.

A.12. Bilateral Investment Agreements

Brazil does not have a Bilateral Investment Treaty with the United States. While Brazil had signed BITs with Belgium and Luxembourg, Chile, Cuba, Denmark, Finland, France, Germany, Italy, Republic of Korea, Netherlands, Portugal, Switzerland, United Kingdom and Venezuela, none of these were ratified by the Brazilian Congress. Brazil also has not ratified the Mercosul investment protocol.

Brazil has no double taxation treaty with the United States, but does have such treaties with 24 other countries, including, among others, Japan, France, Italy, the Netherlands, Canada and Argentina. Brazil signed a Tax Information Exchange Agreement with the United States in March 2007 that currently awaits ratification in the Brazilian Congress, where it has been challenged on its constitutionality.

A.13. OPIC and Other Investment Insurance Programs

Programs of the Overseas Private Investment Corporation (OPIC) are fully available, and activity has increased in recent years. The size of OPIC's exposure in Brazil may occasionally limit its capacity for new coverage. Brazil became a member of the Multilateral Investment Guarantee Agency (MIGA) in 1992.

A.14. Labor

The 86 million strong Brazilian labor force comprises a wide range of skills covering a broad array of occupations and industries. Two thirds of the labor force is employed in the service sector, 19 percent in the agriculture sector, and the retail and manufacturing sectors combined employ the remaining 15 percent.

Brazil has signed on to a large number of International Labor Organization (ILO) conventions. Brazil is party to the U.N. Convention on the Rights of the Child and major ILO conventions concerning the prohibition of child labor, forced labor and discrimination.

The labor code is highly detailed and relatively generous to workers. Formal sector workers are guaranteed 30 days of annual leave, an annual bonus equal to one month's salary, and severance pay in the case of dismissal without cause. Brazil also has a system of labor courts that are charged with resolving routine cases involving unfair dismissal, working conditions, salary disputes, and other grievances. Labor courts have the power to impose an agreement on employers and unions if negotiations break down and either side appeals to the court system. As a result, labor courts routinely are called upon to determine wages and working conditions in industries across the country. The system is tantamount to compulsory arbitration and does not encourage collective bargaining. In recent years, however, both labor and management have become more flexible and collective bargaining has assumed greater relevance.

In firms employing three or more persons, Brazilian nationals must constitute at least two-thirds of all employees and receive at least two-thirds of total payroll. Foreign specialists in fields where Brazilians are unavailable are not counted in calculating the one-third permitted for non-Brazilians.

The Brazilian Institute of Geography and Statistic's (IBGE) estimated unemployment as of December 2008 at 6.8 percent (versus

7.4 percent in December 2007). Unemployment statistics range significantly across regions and the December IBGE numbers may not reflect the latest negative employment impacts of the current global financial crisis.

IBGE reports that real wages have trended higher in recent years. The average monthly wage in Brazil's six largest cities was around 1,284 Reais in December 2008 (approximately USD 536 based on average exchange rates for that month), and the minimum monthly wage was raised from 380 Reais in 2007 to 415 Reais in March 2008. Earnings also vary significantly by region and industry and there is significant wage inequality between Brazil's poor and wealthy.

The Ministry of Labor estimates that there are over 16,000 labor unions in Brazil, but Ministry officials note that these figures are inexact. Labor unions, especially in sectors such as metalworking and banking, tend to be well-organized and aggressive in defending wages and working conditions and account for approximately 19.04 percent of the official workforce according to the last IBGE release (2005). Strikes are frequent, particularly among public sector unions. While some labor organizations and their leadership operate independently of the government and of political parties, others are viewed as closely associated with political parties.

Employer federations, supported by mandatory fees based on payroll, play a significant role in both public policy and labor relations. Each state has its own federation, which reports to CNI (National Confederation of Industries), headquartered in Brasilia.

A.15. Foreign Trade Zones

The federal government has granted tax benefits for certain free trade zones. The most prominent of these is the Manaus Free Trade Zone, in Amazonas State, which has attracted significant foreign investment, including from U.S. companies. Most of these free trade zones aim to attract investment to the North and Northeast of Brazil.

A.16. Foreign Direct Investment

According to the Central Bank's most recent foreign-capital census (2000), the stock of foreign direct investment in Brazil stood at USD 103 billion as of December 2000. Of this total amount, the United States had the largest share at about USD 24.5 billion (24 percent). Spain had 11.9 percent (USD 12.2 billion) and The Netherlands 10.7 percent (USD 11.0 billion). Investment inflows from 2000 to 2006 have amounted to about USD 117 billion, exclusive of depreciation and capital repatriation. The Central Bank has not yet published updated investment stock figures which were originally expected in early 2007.

Central Bank data estimate total FDI inflows were USD 34.6 billion in 2007, and USD 45.0 billion in 2008. According to the U.S. Bureau of Economic Analysis, FDI inflows from the United States to Brazil were USD 4.1 billion in 2007 and United State's FDI stock was USD 41.6 billion as of 2007.

Brazil's Top 20 multinationals have USD 56 billion assets abroad, equivalent to over half of the country's outward FDI stock. A survey released December 3, 2007 by the Columbia Program on International Investment (CPII) and the Brazil-based Fundacao Dom Cabral (FDC) in New York indicated that Brazil's top multinational enterprises (MNEs) made the country the second largest outward investor among developing countries in terms of foreign direct investment (FDI) outflows in 2006.
FDI as a Percentage of GDP: 2003 - 2008

Year	FDI (USD Billions)	Percentage of GDP
2008	45.060	2.84
2007	34.585	2.63
2006	18.782	1.76
2005	15.066	1.71
2004	18.146	2.73
2003	10.144	1.83

Source: Central Bank of Brazil
For more information on investing in Brazil, contact the National Investment Information Network, Brazilian Ministry of Development, Industry and Foreign Trade (MDIC):

http://investimentos.desenvolvimento.gov.br/
renai_en/index.asp

END TEXT.

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